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**BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
**BLAKE DOUGLAS BLOMBERG**  
**1700 Railroad Street**  
**Corona, CA 92880**  
  
**Registered Applicator License No. RA 47862**  
  
Respondent.

Case No. 2010-78

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 25, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2010-78 against Blake Douglas Blomberg (Respondent) before the Structural Pest Control Board. (Accusation Number 2010-78 attached as Exhibit A.)

2. On or about August 16, 2007, the Structural Pest Control Board (Board) issued Registered Applicator License No. RA 47862 to Respondent. The Registered Applicator License was in full force and effect at all times relevant to the charges brought herein and expired on August 16, 2010 and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) and/or agency-specific statute does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1           3.     On or about June 4, 2010, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 2010-78, Statement to Respondent, blank Notice of Defense,  
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
4 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
5 Code section 136, is required to be reported and maintained with the Board, which was and is:  
6 1700 Railroad Street, Corona, CA 92880.

7           4.     Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
9 124.

10          5.     On or about June 14, 2010, the aforementioned documents were returned by the U.S.  
11 Postal Service marked "Addressee Unknown."

12          6.     Government Code section 11506 states, in pertinent part:

13                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18          7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20 2010-78.

21          8.     California Government Code section 11520 states, in pertinent part:

22                 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
as well as taking official notice of all the investigatory reports, exhibits and statements contained  
therein on file at the Board's offices regarding the allegations contained in Accusation No. 2010-

1 78, finds that the charges and allegations in Accusation No. 2010-78, are separately and severally,  
2 found to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,657.50 as of September 16, 2010.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Blake Douglas Blomberg has  
8 subjected his Registered Applicator License No. RA 47862 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Structural Pest Control Board is authorized to revoke Respondent's Registered  
11 Applicator License based upon the following violations alleged in the Accusation which are  
12 supported by the evidence contained in the Default Decision Investigatory Evidence Packet  
13 maintained by the Board in this case.:

14 a. Respondent is subject to disciplinary action under Business and Professions  
15 Code sections 490, 493, and 8649 in that on or about May 29, 2009, in a criminal proceeding  
16 entitled *People of the State of California v. Blake Douglas Blomberg*, in Riverside County  
17 Superior Court, case number RIF148565, Respondent was convicted on his plea of guilty for  
18 violating two counts of Penal Code section 487(a), grand theft of personal property over \$400,  
19 crimes that are substantially related to the qualifications, functions and duties of a registered  
20 applicator.

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ORDER

IT IS SO ORDERED that Registered Applicator License No. RA 47862, heretofore issued to Respondent Blake Douglas Blomberg, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on November 30, 2010.

It is so ORDERED November 1, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION

70349428.DOC  
DOJ Matter ID:SD2009805202

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE  
Deputy Attorney General  
4 State Bar No. 116253  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3164  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

FILED

Date 5/25/10 By Kelli Okuma

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2010-78

**BLAKE DOUGLAS BLOMBERG**  
1700 Railroad Street  
Corona, CA 92880

ACCUSATION

Registered Applicator License No. RA  
47862, Br. 2 and 3

Respondent.

Complainant alleges:

PARTIES

1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

2. On or about August 16, 2007, the Structural Pest Control Board issued Registered Applicator License Number RA 47862, Branch 2 and 3, to Blake Douglas Blomberg (Respondent). The Registered Applicator License was in full force and effect at all times relevant to the charges brought herein and will expire on August 16, 2010, unless renewed.

## JURISDICTION

1           3. This Accusation is brought before the Structural Pest Control Board (Board),  
2 Department of Consumer Affairs, under the authority of the following laws. All section  
3 references are to the Business and Professions Code unless otherwise indicated.

4           4. Section 118 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license.

7           5. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or  
8 revoke a license when it finds that the holder, while a licensee or applicant, has committed any  
9 acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a  
10 civil penalty.

## STATUTORY PROVISIONS

11           6. Section 490 of the Code states:

12                   (a) In addition to any other action that a board is permitted to take against  
13 a licensee, a board may suspend or revoke a license on the ground that the licensee  
14 has been convicted of a crime, if the crime is substantially related to the  
15 qualifications, functions, or duties of the business or profession for which the license  
16 was issued.

17                   (b) Notwithstanding any other provision of law, a board may exercise any  
18 authority to discipline a licensee for conviction of a crime that is independent of the  
19 authority granted under subdivision (a) only if the crime is substantially related to the  
20 qualifications, functions, or duties of the business or profession for which the  
21 licensee's license was issued.

22                   (c) A conviction within the meaning of this section means a plea or  
23 verdict of guilty or a conviction following a plea of nolo contendere. Any action that  
24 a board is permitted to take following the establishment of a conviction may be taken  
25 when the time for appeal has elapsed, or the judgment of conviction has been  
26 affirmed on appeal, or when an order granting probation is made suspending the  
27 imposition of sentence, irrespective of a subsequent order under the provisions of  
28 Section 1203.4 of the Penal Code.

                  (d) The Legislature hereby finds and declares that the application of this  
section has been made unclear by the holding in *Petropoulos v. Department of Real  
Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a  
significant number of statutes and regulations in question, resulting in potential harm  
to the consumers of California from licensees who have been convicted of crimes.  
Therefore, the Legislature finds and declares that this section establishes an  
independent basis for a board to impose discipline upon a licensee, and that the  
amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session  
do not constitute a change to, but rather are declaratory of, existing law.

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7. Section 493 of the Code states, in pertinent part:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications.

8. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

9. Section 8649 of the Code states:

Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

10. Code section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

11. Code section 8655 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal



1 has elapsed, or the judgment of conviction has been affirmed on appeal or when an  
2 order granting probation is made suspending the imposition of sentence, irrespective  
3 of a subsequent order under the provisions of Section 1203.4 of the Penal Code  
4 allowing the individual or registered company to withdraw a plea of guilty and to  
5 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
6 accusation, information or indictment.

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12. Penal Code section 487 states, in pertinent part:

Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding four hundred dollars (\$400), except as provided in subdivision (b).

#### COST RECOVERY

13. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### REGULATORY PROVISIONS

14. California Code of Regulations, Title 16, section 1937.1, states, in pertinent part:

For the purposes of denial, suspension or revocation of a license or company registration . . . a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee or registered company . . . if to a substantial degree it evidences present or potential unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

(b) Commission of any of the following in connection with the practice of structural pest control:

(1) Fiscal dishonesty

(2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

1 CAUSE FOR DISCIPLINE

2 (May 29, 2009 - Criminal Conviction for Grand Theft)

3 15. Respondent is subject to disciplinary action pursuant to Code sections 490, 493, and  
4 8649 in that on or about May 29, 2009, Respondent pled guilty to crimes substantially related to  
5 the qualifications, functions, and duties of a registered applicator. The circumstances as follows:

6 a. On or about May 29, 2009, in a criminal proceeding entitled *People of the State of*  
7 *California v. Blake Douglas Blomberg*, in Riverside County Superior Court, case number  
8 RIF148565, Respondent was convicted on his plea of guilty to two counts of violating Penal  
9 Code section 487(a) (grand theft of personal property over \$400). As a result of the conviction,  
10 on or about May 29, 2009, Respondent was sentenced to, *inter alia*, three years formal probation,  
11 120 days in the custody of the sheriff, with credit for one day served, and payment of fees, fines,  
12 and restitution.

13 b. The facts that led to the conviction were that from April through June, 2008,  
14 Respondent fraudulently represented to two or more victims that if they had "points" on their  
15 Department of Motor Vehicles (DMV) records, that he was able to clear the points with the  
16 DMV. Respondent claimed he was able to do this because his step father was a sergeant with the  
17 Moreno Valley Police Department who had contacts with the DMV through which the victims'  
18 DMV records could be cleared. Respondent charged his victims up to \$300 per point and  
19 represented that the process to clear the records was legitimate as the money was used to pay  
20 outstanding tickets and clear the records. One victim gave Respondent \$440 to clear his DMV  
21 record. Another victim gave Respondent \$600 to clear two points from his DMV record, and  
22 another \$400 to clear his probation status from his record. After the victims reported the crime,  
23 the investigating police officer identified text messages with Respondent that indicated that  
24 Respondent had charged one of the victims and his friends a total of \$4,300 to clear their DMV  
25 records.

26 OTHER MATTERS

27 16. Code section 8620 provides, in pertinent part, that a respondent may request that a  
28 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of one to 19

1 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be  
2 made at the time of the hearing and must be noted in the proposed decision. The proposed  
3 decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

4 17. Pursuant to Code section 8654, if discipline is imposed on Registered Applicator  
5 License Number RA 47862, issued to Respondent Blake Douglas Blomberg, Blake Douglas  
6 Blomberg shall be prohibited from serving as an officer, director, associate, partner, qualifying  
7 manager, or responsible managing employee for any registered company during the time the  
8 discipline is imposed, and any registered company which employs, elects, or associates Blake  
9 Douglas Blomberg shall be subject to disciplinary action.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Structural Pest Control Board issue a decision:

13 I. Revoking or suspending Registered Applicator License Number RA 47862, issued to  
14 Blake Douglas Blomberg.

15 2. Ordering Blake Douglas Blomberg to pay the Structural Pest Control Board the  
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

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21 DATED: 5/25/10

*Kelli Okuma*  
KELLI OKUMA  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
Complainant

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